

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA
SOUTHWESTERN DIVISION

United States of America, Plaintiff, vs. Henry Lee Gipp, Defendant.	Case No.: 1:13-cr-00018-03 MEMORANDUM OF LAW IN SUPPORT OF INITIAL MOTIONS
---	--

COMES NOW Defendant Henry Lee Gipp, by and through his counsel of record, presents this Memorandum of Law in Support of her initial motions. Defendant shall address each of the initial motions in this one Memorandum.

The above-entitled Defendant was indicted for the offense of Conspiracy to Possess with Intent to Distribute and Distribute Controlled Substances in violation of Title 21, United States Code, Section 841(a)(1), and Title 18, United States Code, Section 2. Specifically, it is alleged that the Defendant knowingly and intentionally conspired to possess with intent to distribute and did distribute in excess of 500 grams of a mixture or substance containing methamphetamine. The above-entitled Defendant was also indicted for the offense of Possession of Ammunition by a Convicted Felon, in violation of 18 United States Code, Sections 922(g)(1), 924(a)(2), and 924(e).

1. MOTION TO DISCLOSE PRIOR BAD ACTS

This Motion is made pursuant to Fed.R.Crim.P. 2 and Fed.R.Crim.P. 12, so that the Defendant may adequately prepare objections to such evidence and to minimize the potential disruption of the trial to determine questions of admissibility of evidence. To the extent that the United States seeks to introduce other crimes, wrongs, or acts, under Rule 404(b) as to the Defendant, he moves to suppress and requests for a separate hearing outside the presence of the jury

on that information. The Defendant further requests, consistent with the last clause of Rule 404(b), that if the United States disclose the description and nature of the alleged crime, wrong, or act; the date and place; the names, addresses, and telephone numbers of those with first-hand knowledge concerning such crime, wrong, or act; all tangible evidence the government intends to introduce; and an explicit recitation of the purpose of the offer under Rule 404(b).

2. MOTION TO DISCLOSE PRIOR CONVICTION OR CONVICTIONS

This Motion is made pursuant to Fed.R.Crim.P. 2 and Fed.R.Crim.P. 12, so that the Defendant may adequately prepare objections to such evidence and to minimize the potential disruption of the trial to determine questions of admissibility of evidence. To the extent that the United States seeks to introduce any other conviction or convictions, under Rule 609(b) as to the Defendant, he moves to suppress and requests for a separate hearing outside the presence of the jury on that information. The Defendant further requests that the United States disclose the description and nature of the conviction or convictions; the date and place; the names, addresses, and telephone numbers of those with first-hand knowledge concerning such conviction or convictions; all tangible evidence the government intends to introduce; and an explicit recitation of the purpose of the offer under Rule 609(b).

3. MOTION FOR DISCLOSURE OF INDUCEMENTS TO GOVERNMENT WITNESSES

Defendant moves for disclosure of all inducements given to government witnesses, including any formal or informal, written or unwritten, inducements to testify, plea agreements, and the like, as such information is critical to proper cross-examination of government witnesses and to a fair trial for this Defendant.

4. MOTION TO DISCLOSE IMPEACHING MATERIAL

Defendant moves for disclosure and production of material tending to impeach government witnesses or to show bias of government witnesses. This motion is based on Giglio v. United States, 405 U.S. 150 (1972) and United States v. Agurs, 427 U.S. 97 (1976).

Dated this 17th day of March, 2015.

/s/ James M. Cailao

James M. Cailao
VOGEL LAW FIRM
US Bank Building
200 North 3rd Street, Suite 201
PO Box 2097
Bismarck, ND 58502-2097
Telephone: (701) 258-7899
Facsimile: (701) 258-9705
jcailao@vogellaw.com
Attorneys for Defendant

CERTIFICATE OF SERVICE

I hereby certify that on March 17, 2015, the following document:

Memorandum of Law in Support of Initial Motions

was filed electronically with the Clerk of Court through ECF, and that ECF will send a Notice of Electronic Filing (NEF) to the following:

Michael Mahoney
mmahoney@nd.gov

David Hagler
David.Hagler@usdoj.gov

/s/ James M. Cailao

James M. Cailao